

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PERRY D. DAVIS,

Plaintiff,

v.

NEBRASKA DEPARTMENT OF
CORRECTIONAL SERVICES,
ROBERT HOUSTON, ROBIN
SPINDLER, LARRY WAYNE,
FRANCIS BRITTEN, BRIAN
GAGE, MICHELLE HILLMAN,
SHAWN SHERMAN, SCOTT
BUSBOOM, JAMES JANSEN,
CATHY PETERS, ROBERT
NEEDHAM, KNOWN AND
UNKNOWN JANE AND JOHN
DOE MAILROOM STAFF AND
CANTEEN STAFF 1 TO 100,
ELOISE KAMPBELL, 1 TO 100
SHERIDAN COUNTY NEBRASKA
OFFICIALS JANE AND JOHN
DOE, KNOWN AND UNKNOWN,
DENNIS KING, JAMIAN J.
SIMMONS, FRANK X. HOPKINS,
KEITH BROADFOOT, and TRACY
HIGHTOWER-HENNE,

Defendants.

4:14CV3168

**MEMORANDUM
AND ORDER**

This matter is before the court on its own motion. On December 1, 2014, the court conducted a pre-service screening of Plaintiff's Complaint (Filing No. [1](#)) in accordance with [28 U.S.C. §§ 1915\(e\)](#) and [1915A](#). (See Filing No. [10](#).) After summarizing Plaintiff's allegations (*id.* at CM/ECF pp. 1-3), the court determined that, with few exceptions, the allegations did not give the defendants fair notice of the

claims against them. (*Id.* at CM/ECF p. 4.) In addition, the court determined Plaintiff failed to state access-to-courts claims against the defendants, primarily because he did not allege he suffered an actual injury as a result of any of the defendants' actions. (*Id.* at CM/ECF pp. 6-7.) Finally, the court determined Plaintiff failed to state a conspiracy claim against the defendants. (*Id.* at CM/ECF pp. 7-8.) The court gave Plaintiff 30 days in which to file an amended complaint. (*Id.* at CM/ECF p. 9.) The court made no finding with respect to the validity of Plaintiff's state-law claims or whether the court had jurisdiction over them.

After receiving three extensions of time from the court, Plaintiff filed his Amended Complaint (Filing No. [17](#)) on April 9, 2015. Plaintiff reiterated the allegations set forth in his original Complaint in his Amended Complaint. Thus, for the reasons already discussed in the court's order dated December 1, 2014, the court finds Plaintiff has failed to state a claim upon which relief may be granted in this action.

IT IS THEREFORE ORDERED that:

1. For the reasons set forth in the court's order dated December 1, 2014 (Filing No. [10](#)), Plaintiff's federal-law claims are dismissed with prejudice for failure to state a claim upon which relief may be granted. Any remaining state-law claims are dismissed without prejudice.

2. A separate judgment will be entered in accordance with this order.

3. In light of the foregoing, Plaintiff's Motion for Appointment of Counsel (Filing No. [19](#)) and Motion for Leave to Proceed in Forma Pauperis (Filing No. [20](#)) are denied as moot.

DATED this 3rd day of August, 2015.

BY THE COURT:

s/ John M. Gerrard

United States District Judge

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